

SENATE BILL 2426
By Burchett

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to persons engaging in home solicitation sales.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 7, is amended by adding Sections 2-4 as new, appropriately designated sections.

SECTION 2.

(a) All persons or business entities shall initiate a criminal background check on any person who is employed or engaged as an independent contractor by such person or business entity to conduct home solicitation sales, prior to or within seven (7) days of employment or provision of services. Any person who applies for employment in a position that requires home solicitation sales shall consent to:

(1) Provide past work and personal references to be checked by the person or business employing such person; and

(2) Agree to the release of any and all information and investigative records to the employer or its agent, or to any agency that contracts with the state of Tennessee necessary for the purpose of verifying whether the individual has been convicted of a felony in the state of Tennessee; and

(3) Supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation, other law enforcement agency, or any legally authorized entity; and

(4) Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

(b) Any costs incurred by the Tennessee bureau of investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting such investigations of such persons shall be paid by the business or any agency that contracts with the state of Tennessee requesting such investigation and information. Payments of such costs to the Tennessee bureau of investigation are to be made in accordance with the provisions of §§ 38-6-103 and 38-6-109.

SECTION 3. (a) Prior to conducting business in a county, a person or business entity engaging in home solicitation sales shall obtain a home solicitation sales permit for any person who is employed by such person or business entity to engage in home solicitation sales from the clerk of such county once the requirements of section 2 have been met.

(b) The person or business entity desiring to engage in home solicitation sales shall furnish proof of the identity and permanent address of all sellers to the satisfaction of the county clerk, and shall provide detailed descriptions of any motor vehicle that will be used in conducting business in the county. Proof of identity shall include the driver license number of any person who will be using a motor vehicle for such sales. The description shall include the state of registration of such motor vehicle and the license plate number assigned thereto.

(c) The person or business entity shall also furnish to the county clerk the report obtained pursuant to section 2 of this act. The person or business entity shall also provide the county clerk with information specifying the dates and times during which such home solicitation sales shall be conducted in the county.

(d) The county clerk shall charge a fifty dollar (\$50.00) fee for issuing a home solicitation sales permit which shall be valid for the dates and times specified. The county clerk shall also provide the sheriff of the county a copy of each home solicitation sales permit issued.

(e) A seller engaged in home solicitation sales shall have a copy of the permit issued by the county clerk available for presentation during the time the seller is conducting home solicitation sales in such county.

(f)

(1) It is an offense for any seller who has been convicted of a felony to conduct home solicitation sales.

(2) A violation of this subsection is a Class E felony.

SECTION 4. Violations of any of the provisions of this act shall be deemed to be an unfair or deceptive practice as provided in Tennessee Code Annotated, Section 47-18-104, and shall be punishable as a Class B misdemeanor pursuant to Tennessee Code Annotated, Section 47-18-104.

SECTION 5. Tennessee Code Annotated, Section 47-18-104(b), is amended by deleting the language "and" at the end of subdivision (33) and by deleting the period (.) at the end of subdivision (34) and substituting instead the language "; and".

SECTION 6. Tennessee Code Annotated, Section 47-18-104(b), is further amended by adding the following as an appropriately designated subdivision:

() Conducting home solicitation sales without a home solicitation sales permit, or falsifying information on a home solicitation sales permit application.

SECTION 7. This act shall take effect July 1, 2004, the public welfare requiring it.